

Message Text

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TO USMISSION USUN NEW YORK

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SUBJECT: WORKING GROUP OF THE COMMITTEE ON RELATIONS OF THE
HOST COUNTRY

REFS: (A) USUN A-689, JUNE 21, 1973; (B) USUN 1578;
(C) USUN 1984

REF (A) ENCLOSED NOTE FROM UN LEGAL COUNSEL REQUESTING
INFORMATION FROM MEMBER STATES CONCERNING THEIR PRACTICE IN
EXTENDING REAL ESTATE TAX EXEMPTIONS TO PROPERTIES HELD BY
SENDING STATES FOR DIPLOMATIC PURPOSES. SEVERAL SPECIFIC
QUESTIONS WERE INCLUDED ON PAGES 3 AND 4 OF THE LETTER
AND THE FOLLOWING IS INTENDED FOR USE IN RESPONDING TO THOSE
QUESTIONS.

A. THE US GIVES FULL EFFECT TO ARTICLE 25 OF THE
VIENNA CONVENTION ON DIPLOMATIC RELATIONS WHICH IS IN FORCE.
THE APPLICATION OF THIS ARTICLE IS OF COURSE DEPENDENT UPON
RECIPROCITY AS PROVIDED FOR IN ARTICLE 47 OF THE CONVENTION.
PREMISES OWNED BY THE SENDING STATE OR ON ITS BEHALF AND
USED AS OFFICES OF THE MISSION OR AS A RESIDENCE OF THE HEAD
OF MISSION ARE GRANTED FULL EXEMPTION FROM REAL ESTATE TAXES
REGARDLESS OF WHERE LOCATED. EXCEPT AS PROVIDED BY TREATY
OR SPECIAL LEGISLATIVE ENACTMENT, PREMISES OWNED BY THE
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SENDING STATE OR ON ITS BEHALF AND USED FOR THE PURPOSES

OF PROVIDING RESIDENTIAL ACCOMMODATION FOR OTHER MEMBERS OF THE MISSION STAFF ARE NOT ENTITLED TO TAX EXEMPTIONS.

PREMISES OWNED BY MEMBERS OF THE DIPLOMATIC STAFF OR MEMBERS OF THE ADMINISTRATIVE, OR TECHNICAL STAFF, AND USED BY THEM FOR PRIVATE RESIDENTIAL PURPOSES, ARE NOT ENTITLED TO A TAX EXEMPTION, IN KEEPING WITH ARTICLE 34(B), UNLESS THERE IS SPECIAL TREATY PROVISION OR LEGISLATIVE ENACTMENT EXTENDING THIS EXEMPTION.

AS A GENERAL RULE, PREMISES LEASED BY THE SENDING STATE AND USED FOR RESIDENTIAL PURPOSES ARE NOT ENTITLED TO A TAX EXEMPTION IN KEEPING WITH ARTICLE 23(2) OF THE VIENNA CONVENTION AND CUSTOMARY INTERNATIONAL LAW. IN THE UNITED STATES THE OBLIGATION TO PAY REAL ESTATE TAXES IS GENERALLY IMPOSED ON THE OWNERS OF PROPERTY AND THEREFORE THE LESSEE OF THE PROPERTY IS NOT ENTITLED TO CLAIM A TAX EXEMPTION AND THE PROPERTY ITSELF IS NOT ENTITLED TO AN EXEMPTION MERELY BECAUSE IT IS OCCUPIED BY A DIPLOMATIC MISSION OR ITS PERSONNEL.

B. AS A GENERAL RULE, REAL ESTATE TAXES ARE LEVIED IN THE US FOR THE PURPOSE OF PROVIDING REVENUE FOR INDIVIDUAL STATES OR LOCALITIES TO SUPPORT PUBLIC SERVICES SUCH AS SCHOOLS, FIRE PROTECTION, ETC. OTHER SPECIFIC PURPOSES VARY FROM LOCATION TO LOCATION. FOR EXAMPLE, IN THE DISTRICT OF COLUMBIA REAL ESTATE TAXES ARE USED, AMONG OTHER THINGS, TO SUPPORT GARBAGE AND TRASH REMOVAL. IT IS NOT POSSIBLE AT THIS STAGE TO EVALUATE THE RELATIVE IMPORTANCE OF SPECIFIC PURPOSES COVERED BY REAL ESTATE TAXES; THE IMPORTANCE OF THE PURPOSE WOULD LARGELY DEPEND UPON THE SPECIFIC REVENUE NEEDS OF THE COLLECTING AUTHORITY.

C. IN THE UNITED STATES, REAL ESTATE TAXES ARE PRINCIPALLY LEVIED BY STATES BUT MAY ALSO BE LEVIED BY COUNTIES, MUNICIPALITIES AND OTHER SUBDIVISIONS OF STATE GOVERNMENT. AT THE PRESENT TIME THE FEDERAL GOVERNMENT DOES NOT REIMBURSE OR OTHERWISE COMPENSATE STATES AND LOCALITIES FOR LOSSES IN REVENUE RESULTING FROM THE EXEMPTIONS GRANTED UNDER INTERNATIONAL LAW FOR PREMISES

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OCCUPIED BY DIPLOMATIC MISSIONS AND MISSION STAFFS.

D. AS INDICATED ABOVE, UNDER THE LEGAL SYSTEM OF THE US, THE OWNER NORMALLY IS LIABLE FOR REAL ESTATE TAXES AND IT IS FROM THE OWNERS THAT THE REAL ESTATE TAXES ARE NORMALLY COLLECTED. WE ARE NOT AWARE OF CASES IN WHICH THE OBLIGATION TO PAY REAL ESTATE TAXES HAS BEEN PASSED TO THE TENANT. SUCH ACTION WOULD NOT IMPOSE UPON THE TENANT THE

LEGAL RESPONSIBILITY AND THEREFORE THE TENANT WOULD NOT BE OBLIGATED TO PAY THE TAXES TO THE TAX AUTHORITIES. THEREFORE, SUCH ACTION WOULD NOT RESULT IN A CHANGE OF POLICY

ON THE PART OF THE UNITED STATES GOVERNMENT RESPECTING TAX EXEMPTIONS FOR THE SENDING STATE OR MEMBERS OF THE SENDING STATE'S MISSION.

E. UPON THE RATIFICATION OF THE VIENNA CONVENTION ON DIPLOMATIC RELATIONS, THE USG REAFFIRMED ITS POLICY OF APPLYING THE TAX EXEMPTIONS CONTAINED IN THE CONVENTION TO ALL DIPLOMATIC MISSIONS AND MISSION PERSONNEL ELIGIBLE UNDER THE CONVENTION. NO SPECIAL ADMINISTRATIVE CHANGES WERE IMPLEMENTED; HOWEVER RATIFICATION OF THE VIENNA CONVENTION MADE THE EXEMPTIONS INCLUDED IN THE CONVENTION LEGALLY BINDING UPON ALL STATES AND OTHER POLITICAL SUBDIVISIONS IN THE UNITED STATES. KISSINGER

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